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FOR IMMEDIATE RELEASE:

**TWO INDIANAPOLIS MEN SENTENCED TO 77 MONTHS
EACH FOR SELLING DXM OVER THE INTERNET
RESULTING IN DEATHS OF 5 PERSONS**

PRESS RELEASE

Susan W. Brooks, United States Attorney for the Southern District of Indiana, announced that JESS A. JOHNSON, 31, and ROBERT R. DENMAN, 31, both of Indianapolis, Indiana, were sentenced today to 77 months imprisonment by the U.S. District Judge John Daniel Tinder, following their previously entered guilty pleas to three counts of introduction of misbranded drugs into interstate commerce. This case was the result of an investigation by the Food and Drug Administration (FDA) Office of Criminal Investigations in connection with the sale of dextromethorphan (DXM) over the internet by JOHNSON and DENMAN which resulted in the deaths of five individuals.

In sentencing JOHNSON and DENMAN, Judge Tinder found that the applicable U.S. Sentencing Guideline range of 10-16 months was “woefully inadequate in addressing the harm

caused” in this case; that “Congress did not anticipate that such devastation could be wreaked by a violation of this statute. This case fits into no category and compares with no other case.” Judge Tinder concluded that “the defendants showed callous and reckless disregard for human life.”

Susan W. Brooks, United States Attorney for the Southern District of Indiana, applauded the work of the FDA. She stated “The deaths of these five young men is a tragedy, but hopefully will focus attention on this problem. These prison sentences should serve to deter persons who use the internet to unlawfully distribute prescription and over-the-counter drugs. And parents must realize that the same internet that provides educational opportunities for their children can also bring danger.”

"The FDA's Office of Criminal Investigations will continue to aggressively pursue those who sell dangerous products on the Internet. The deaths of these five young men remind us that there are unscrupulous people who will prey on an unsuspecting public by selling harmful and dangerous substances on their web-sites," said Special Agent in Charge Michael Cleary of FDA's Office of Criminal Investigations, Chicago Field Office.

Dextromethorphan (DXM) is an antitussive (cough suppressant) chemical approved for use as a drug by the FDA in over-the-counter cough medications. DXM is not a controlled substance within the meaning of Title 21, but is regulated by the FDA to the extent that it is sold as a drug for human consumption. DXM is often abused by persons to get high. Many people have been known to consume excessive amounts of cough medicine containing DXM to experience the high. A large enough dose of DXM can cause hallucinations, brain damage, and seizures. An overdose can result in death.

JOHNSON and DENMAN admitted that they did business as Chemical API through their internet website. "API" is an acronym for "active pharmaceutical ingredients." They imported DXM from India and sold it in its pure powder form over the internet to persons whom they knew intended to ingest the drug to get high.

Because the substance was used as a drug, it was subject to FDA regulations regarding importation and labeling. DENMAN and JOHNSON sought to avoid the regulations by falsely claiming that DXM was a chemical to be used for research and development rather than a drug intended for human consumption. DENMAN and JOHNSON repackaged the DXM and sold hundreds of doses over their internet website between November 2004 and May 2005. One shipment from Chemical API made on January 10, 2005, was to Danville, Virginia. A 17-year-old male ingested the drug and died from an overdose on January 25, 2005. Another shipment was made on January 19, 2005, to Bellingham, Washington. Two males, ages 17 and 19, ingested the drug and died from overdoses on April 23, 2005. A third shipment was made on January 31, 2005, to Fort Meyers, Florida. Two 19 year-old males ingested the drug and died from overdoses on February 20, 2005.

JOHNSON and DENMAN learned of the deaths in Florida from news articles but continued to sell the drug over the internet until their operation was shut down following the execution of search warrants at their Indianapolis residences by the FDA in May 2005. Margaret O. Glavin, Food and Drug Administration Associate Commissioner for Regulatory Affairs stated, "While the Internet provides convenience it is not without potential dangers. One of those dangers is unscrupulous people who own web sites that prey on an unsuspecting public by selling harmful products and substances. These web sites provide the consumers with false

and misleading information about the safety and usage of their products and operate without regard for the health and safety of those to whom they sell. The FDA is committed to working closely with other local, state, and federal law enforcement agencies, and the US Attorney's Office, to investigate and prosecute those who engage in the sale of potentially dangerous products.”

According to Assistant United States Attorney Donna R. Eide, who prosecuted the case for the government, Judge Tinder fined each defendant \$1,000 and imposed one year supervised release following their prison terms.

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